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OFFICE OF PETITIONS

In re Patent No. 7,112,297	: DECISION ON REQUEST FOR
Williams et al.	: RECONSIDERATION OF
Issue Date: September 26, 2006	: PATENT TERM ADJUSTMENT
Application No. 10/697,302	: and
Filed: October 31, 2003	: NOTICE OF INTENT TO ISSUE
Atty. Dkt. No. AQUA-018-A	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d) filed October 20, 2006. Patentees request the Office to revise the patent term adjustment in the above-identified patent from sixty-five (65) days to one hundred sixty-five (165) days.

The request for correction of the patent term adjustment (PTA) indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ONE HUNDRED SIXTY-FIVE (165) days.

On September 26, 2006, the application matured into U.S. Patent No. 7,112,297, with a revised patent term adjustment of 65 days. Patentees dispute the entry of a period of reduction of 100 days associated with the Issue Fee payment being verified on May 12, 2006. Patentees assert that the only circumstance constituting a failure to engage was the abandonment of the application on February 2, 2006.

37 C.F.R. § 1.704(c) states:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of

the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicants should have been assessed delay for the period from February 2, 2006 (the date the application became abandoned) to July 5, 2006 (the date the decision reviving the application was mailed), or 154 days. The period of reduction of 100 days associated with the filing of the Issue Fee payment on petition to revive is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of ONE HUNDRED SIXTY-FIVE (165) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED SIXTY-FIVE (165) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,112,297 B2
DATED : September 26, 2006
INVENTOR(S) : Williams et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (65) days

Delete the phrase "by 65" and insert – by 165 days--